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WRITER'S DIRECT DIAL

March 24, 2000

RECEIVED

MAR 24 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, NW
Room 2222
Washington, DC 20554

(202) 828-9475


Re: Written Ex Parte Presentation
CC Docket No. 96-45
DA No. 99-1331

Dear Madam Secretary:

In accordance with Section 1.1206 of the Commission's rules, 47 CFR Section 1.1206, we hereby provide you with two copies of a written *ex parte* presentation in connection with the above-captioned proceeding for inclusion in the Commission's docket file.

If you have any questions or require any additional information, please contact undersigned counsel directly.

Sincerely,



David A. LaFuria
Counsel for Smith Bagley, Inc.

Enclosures

No. of Copies rec'd 0+2
List ABCDE

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WRITER'S DIRECT DIAL

March 24, 2000

(202) 828-9475

By Hand Delivery

Lisa Boehely, Chief
Accounting and Policy Division
Common Carrier Bureau
Federal Communications Commission
Washington, DC 20554

Re: Smith Bagley, Inc. ("SBI")
CC Docket No. 96-45
DA No. 99-1331

Dear Ms. Boehely:

This is to follow up on our meeting of Wednesday and to provide you with the information you requested about SBI's connection charges.

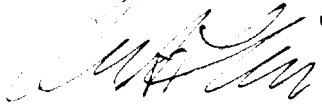
In reviewing our files, I located a preliminary proposal which we transmitted to various Commission staff members in advance of meetings which were held last Spring. Because the materials were submitted prior to the filing of SBI's application for ETC status, they have not been included in the formal record of this proceeding. At your request, SBI would of course be willing to provide additional detail, and to update the data contained in the enclosed proposal as appropriate.

In this week's meeting, we also briefly discussed SBI's commitment to provide a substantial list of telephone numbers which can be called by universal service subscribers without using up minutes included in the plan or otherwise incurring air time charges. An updated copy of that list, containing additional numbers which have been added to the list originally proposed last May, is also enclosed for your review.

Lisa Boehely
March 24, 2000
Page 2

We look forward to following up on the other information requests made at the meeting and getting back to you at the earliest possible date. Thank you again for taking time to meet with us this week.

Sincerely,

A handwritten signature in black ink, appearing to read "David A. LaFuria". The signature is fluid and cursive, with a prominent initial "D" and "L".

David A. LaFuria
Counsel for Smith Bagley, Inc.

Enclosures

cc: Ms. Katherine Schroder
Ms. Ellen Blackler
Mr. Mark Nadel
Mr. Gene Fullano

AIRTIME FREE NUMBERS

SYSTEM-WIDE ACCESS & CUSTOMER SERVICE

*11	VOICE MAIL MESSAGE RETRIEVAL
*311	PAYMENT ARRANGEMENTS
*611	CUSTOMER SERVICE
*711	ROAMER INFO
*811	CUSTOMER SERVICE/ESN CAPTURE
*911	EMERGENCY
*96	KRFM MAILBOX – COMMUNITY INFORMATION
532-3232	KRFM HOTLINE
524-2676	CHOLLA POWER PLANT
537-7623	WEATHER CONDITIONS
537-8713	AZ. NATIONAL GUARD
1-800-458-7032	DEPT. OF PUBLIC SAFETY
1-800-493-7808	MESSAGE ONE

537-7567	CELLULAR ONE
537-0690	CELLULAR ONE ADMINISTRATIVE LINE
537-9199	ADMINISTRATIVE FAX NUMBER
528-0000	COMMENT LINE
521-0546	COMMENT LINE
537-0375	EZONE MAILBOX
521-3585	ON-CALL
537-4902	CELLULAR ONE CUST. SVC FAX NUMBER
537-1716	CELLULAR ONE AGENT LINE
537-6700	TEMP. SPEAKING
1-800-571-8590	CELLULAR VENDOR LINE
1-800-716-4638	CELLULAR ONE ADMINISTRATION
1-800-730-2351	CELLULAR ONE
1-888-241-9743	CELLULAR ONE
1-800-516-4363	PAYMENT ARRANGEMENTS

APACHE COUNTY

337-4321	APACHE COUNTY SHERIFF
337-4200	APACHE COUNTY PROB.

CHINLE

674-1000	CHINLE HOSPITAL
674-7001	CHINLE HOSPITAL

CHINLE AREA

781-6235	MANY FARMS FIRE BIA
787-2331	LUKACHIUKAI FIRE

CIBECUE

332-2302	CIBECUE EMS
332-2401	CIBECUE FIRE DEPT.
332-2555	CIBECUE POLICE
332-2560	URGENT CARE CENTER

EAGAR/SPRINGERVILLE

333-4000	EAGAR/SPRINGERVILLE POLICE
333-4127	EAGAR POLICE DEPT.
333-4240	EAGAR/SPRINGERVILLE POLICE
333-4368	WHT. MTN. COMM. HOSPITAL
333-4417	APACHE SITGREAVE NAT. FOREST
333-4949	U.S. FOREST SERVICE

FORT DEFIANCE

729-5741	FORT DEFIANCE HOSPITAL
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GANADO

755-3400	GANADO FIRE DEPARTMENT
755-3411	SAGE MEMORIAL HOSPITAL

HEBER

535-4600	HEBER FIRE DEPT.
535-4789	HEBER FIRE DEPT.

NAVAJO COUNTY

368-8333	NAVAJO CTY. GANG TASK FORCE
524-4050	NAVAJO COUNTY SHERIFF
524-3969	NAVAJO COUNTY SHERIFF
367-4541	NAVAJO COUNTY SHERIFF

HOLBROOK

524-3256	DPS CRIMINAL INVESTIGATION
524-3991	HOLBROOK POLICE

HOPI

738-2211	KEAMS CANYON HOSPITAL
738-2233	HOPI POLICE DEPT.
738-2234	KEAMS CANYON POLICE

KAYENTA

697-3211
697-5600

KAYENTA HEALTH CNTR.
KAYENTA POLICE

LAKESIDE/PINETOP

368-6112
368-8800
367-2199
367-2220

LAKESIDE FIRE DEPARTMENT
PINETOP POLICE DEPT.
PINETOP FIRE DEPARTMENT
PINETOP FIRE EKG FAX

LEUPP

657-3434
686-6270

LEUPP POLICE DEPT.
LEUPP SCHOOLS

SANDERS

688-2424
688-2615

PUERCO VALLEY FIRE
PUERCO VALLEY FIRE

SHOW LOW

537-4365
537-4375
537-3090
532-0095
537-1101
537-3872
537-4940

SHOW LOW POLICE DEPT.
NAVAPACHE MEDICAL CNTR.
NAVAPACHE MEDICAL CNTR.
NRMIC TRAUMA CENTER
LINDEN FIRE DEPARTMENT
NRMIC EKG FAX
DPS CRIMINAL INVESTIGATION

SNOWFLAKE/TAYLOR

536-7500

SNOWFLAKE/TAYLOR POLICE

ST. JOHNS

337-2440

ST. JOHNS POLICE DEPT.

TUBA CITY

283-4200
283-6211

TUBA CITY FIRE DEPT.
TUBA CITY MED. CNTR.

WINDOW ROCK

871-6111
871-6113

WINDOW ROCK FIRE
WINDOW ROCK POLICE

WINSLOW

289-2431
289-4646
289-4691

WINSLOW POLICE DEPT.
WINSLOW PUBLIC HEALTH
WINSLOW MEMORIAL HOSPITAL

WHITERIVER

338-4311
338-4911
338-4942
338-5151
338-3763

WHITERIVER FIRE DEPT.
WHITERIVER HOSPITAL
WHITERIVER POLICE
WHITERIVER HOSPITAL EMERGENCY
IHS HOSPITAL E.R.

CELLULAR ONE AGENTS

333-3084
333-4433
337-3233
338-1606
339-4338
367-2127
367-6116
367-6152
524-2697
524-9771
532-7540
535-3623
536-4213
536-5318
613-3144
537-2907
674-2111
674-5486
697-3693
871-3227
674-1658

ROUND VALLEY COMM.
PRECISION LUMBER SPRINGVILLE
COMPLETE COMMUNICATIONS ST. JOHNS
WHITERIVER CELLULAR
ALPINE CELLULAR
SATELLITE CONNECTION/RADIO SHACK
WHITE MTN. COMMUNICATION
AZ COM
ORTEGA COMMUNICATIONS
MAIN STREET WIRELESS
RICK'S CELLULAR
COMPLETE COMM./HEBER
PRECISION LUMBER/SNOWFLAKE
COMPLETE COMM./TAYLOR
WINSLOW WALMART
PRECISION LUMBER/SHOW LOW
CHINLE CELLULAR
CHINLE GENERAL STORE
KAYENTA GENERAL STORE
WINDOW ROCK GENERAL STORE
FLEA MARKET CELLULAR

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* ADMITTED ONLY IN VIRGINIA

May 14, 1999

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Federal Communications Commission
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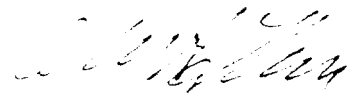
Re: Universal Service Proposal

Dear Ellen:

In advance of our meeting next week, I have enclosed for your review a preliminary Universal Service proposal for Native American reservations in Arizona and New Mexico served by Smith Bagley, Inc.

If you have any questions, please call me.

Sincerely,



David A. LaFuria
Counsel for Smith Bagley, Inc.

Enclosure

CELLULAR ONE
SERVING NE ARIZONA AND
NEW MEXICO

WIRELESS SOLUTION

**AN OPPORTUNITY TO PROVIDE
UNIVERSAL SERVICE TO NATIVE
AMERICANS**

Wireless Solution

A PROPOSAL TO PROVIDE UNIVERSAL TELEPHONE SERVICE TO NATIVE AMERICANS

PREMISE

Smith Bagley, Inc. d.b.a. Cellular One ("SBI") is the A Band cellular license holder for populations in Arizona RSAs 03, 05, 06 and New Mexico RSAs 01 and 03. Within SBI's service area, the company provides coverage to five Native American reservations; the White Mountain Apache, Hopi, Ramah Navajo, Navajo and Zuni Pueblo. The collective land area of these reservations is over 20,000 square miles. SBI currently serves over 90% of this area. Although landline telephone companies have been licensed to serve much of these Native American lands for many years, and have received Universal Service funds to provide basic telephone service, telephone penetration in these areas is abysmal.

For example, 77% of the population on the Navajo's reservation is phoneless. Beyond the obvious economic and educational disadvantages inherent in being phoneless, the Native American population faces increased health and safety risk. It is not an understatement that lack of reliable telephone service contributes to shortened life expectancy.

At the recent CTIA convention in New Orleans, FCC Chairman William Kennard challenged the wireless industry to offer creative solutions to this difficult problem. At the FCC's meeting in Glendale, Arizona this past March, a wireline executive conceded that it will probably never be economically feasible to string a telephone wire to a substantial portion of many Native American Reservations.

SBI has built a cellular telephone system that provides a large footprint on each of the reservations listed above. SBI has an established distribution network and the company actively markets its services to the Native American population. Many people with the means have welcomed the introduction of wireless services on these reservations, yet a substantial portion of the population simply cannot afford service. Household incomes are often less than \$4000 annually, making even modest telephone charges prohibitive.

PROPOSAL

SBI proposes to implement an experimental program pursuant to which Native Americans living within SBI's service area can immediately obtain basic telephone services while enabling the FCC to gather important data to enable it to appropriately tailor Universal Service programs for Native Americans nationwide. SBI does not require any reimbursement for its existing infrastructure and a meaningful program can be implemented as soon as regulatory approvals and program administration is completed.

SBI understands that under the Communications Act, a carrier must be designated as an Eligible Telecommunication Carrier ("ETC") by the State in which it would receive

Universal Service Funds. SBI has applied for ETC status in both Arizona and New Mexico. Copies of these applications are attached hereto for your reference. SBI has requested both states to expedite consideration of these applications, however SBI has not yet been advised by either state as to how long the process will take.

In order to expedite the provision of service to Native Americans, SBI requests the FCC to establish an experimental Universal Service program in this instance. SBI believes that Congress has given the FCC substantial authority under Section 254 to establish an experimental program and the Commission has acknowledged its broad authority under the statute "to establish in the first instance what services should be supported and what are the necessary mechanisms to do so." See, Universal Service, 12 FCC Rcd 8776, 9193 (1997). If such an experimental program were limited to Native American lands, the states would be free to process SBI's ETC applications for non-Native American lands on their normal schedule. Given that SBI currently provides usable radio frequency signal to most of the Native American lands that it is authorized to serve, any substantial delay in implementing a Universal Service program disserves thousands of persons living in these areas.

Specifically, SBI's proposal is twofold. First SBI asks the FCC to grant to SBI, as well as other carriers serving Native American lands in Arizona and New Mexico, special designation on an experimental basis as an ETC, thus permitting SBI and other carriers to receive Universal Service funding. SBI, as outlined in our Arizona and New Mexico ETC applications, meets the ETC checklist and is prepared to offer this service. SBI would be pleased to provide the FCC with any information needed to establish the company as an ETC for purposes of this experimental program.

Second, SBI requests the FCC to establish a simple USF reimbursement mechanism during the experimental phase, consisting of, (1) a nonrecurring charge to cover a portion of customer equipment, acquisition, and administrative costs, and (2) a fixed monthly charge to cover the minimum customer usage charges as set forth below.

COST

Historical MOU statistics for landline and wireless telephone subscribers are not reliable measuring statistics for subscribers who have never used a telephone. Accordingly, SBI has never undertaken to perform a detailed cost model such as the one submitted to the FCC by Western Wireless. The complex and expensive toll configurations that exist on these reservations make it doubly difficult to accurately predict costs. The interconnect rates on reservations are extremely high as compared to metropolitan areas and differ among reservations.

The only costs we can begin to identify are the initial acquisition costs of obtaining these customers. Even in this analysis, we have to use what we consider the typical equipment configuration for the typical customer. In most households, we will recommend a three-watt terminal unit with a directional antenna that is permanently mounted at the residence. SBI's equipment cost for such a configuration would be as follows:

➤ Three Watt Cellular Telephone	\$100
➤ 12 dB gain Directional Antenna	\$ 65
➤ 30-45 ft. RG-58 coaxial cable, fittings and labor	<u>\$ 35</u>
➤ TOTAL EQUIPMENT COST	\$200

Additional non-recurring costs would be an activation fee and distribution fees for each customer. The activation fee covers the cost of initial switch and billing set-up, account creation etc. Distribution and administrative fees are charges for commissions and administrative costs associated with the activation. These costs would be as follows:

➤ Activation Fee	\$ 35
➤ Distribution and Administration Fees	<u>\$100</u>
➤ TOTAL	\$135

GRAND TOTAL ACQUISITION COSTS PER CUSTOMER \$335

This cost equation is an estimate and customer service costs and administrative costs may vary significantly depending on the structure and success of the program. SBI would track and review these costs on a regular basis as it develops the initial program.

PROGRAM STRUCTURE

Our proposal for recurring monthly service would be a simple access fee of \$24.99, which would include monthly access and thirty (30) minutes of airtime (use or lose) for all phoneless households on the Reservations. This fee gives the customers LifeLine service plus free access to SBI's extensive list of airtime numbers that includes 911, and all police, fire and safety agencies, hospitals and health agencies, forest services etc. Calls to these essential numbers would not count against any included minutes. The relevant portion of that list for Native Americans is attached hereto as Exhibit A. SBI will offer additional prepaid airtime minutes at .49 per minute peak, and .34 per minute off-peak at numerous convenient locations that SBI currently operates on the Reservations.

Perhaps the most important practical advantage that Native American subscribers will realize in this program is that SBI's toll free calling area covers roughly 80,000 square miles (currently 400 miles North/South by 200 miles East/West). The local calling area for LEC subscribers on Native American lands is often no more than a 3 or 4 mile radius from the caller's residence. In such remote areas, virtually every call terminating outside of the confines of a small village is a toll call. Currently, landline toll rates on the reservations that SBI serves are approximately .45 per minute for the first minute and .28 per minute

thereafter. Under SBI's proposal, subscribers may use their initial allotment to call throughout SBI's service area without toll charges, and additional minutes are priced at a rate competitive with local exchange carrier offerings. This approach enables customers in remote areas, where landline service may never be available, to access SBI's entire footprint at a price that is competitive with landline service offerings in more populous areas.

At the outset, SBI has fixed thirty minutes as a starting point for this program. SBI has determined to make available a large list of free numbers, as listed in Exhibit A, and to initially monitor subscriber calling patterns and system usage. After six months, SBI will have a better idea how new subscribers are using the network and the extent to which the number of provided minutes can be increased without significant additional network investment to accommodate the increased usage. In addition, SBI intends to monitor the improper use of free numbers to avoid toll or airtime charges.

SBI understands that the Commission generally favors having participants contribute to the program. Given the demographic characteristics of the target subscribers, SBI believes the most effective means of obtaining a subscriber contribution is through the purchase of prepaid minutes. The advantages of this approach in such a unique situation are numerous. For example, on a relative basis, billing each month presents enormous billing challenges. Many subscribers have no checking account or credit cards, requiring cash payments. As a result, SBI may have to send representatives to each small village to collect payments. Keeping track of subscribers' payment history is administratively burdensome and adds unnecessary costs. A monthly fee will greatly increase churn from subscribers who cannot pay. Churn is especially detrimental to this program because one of the key elements is effective data collection so that a solid foundation can be established to implement a permanent program across the country. Finally, and perhaps most important, subscribers who pay nothing up front, but only purchase prepaid minutes after the initial allotment is exhausted are extremely unlikely to leave the program. Subscriber disconnects must be minimized if any program serving Native Americans is to succeed.

This initial program structure is based on a conservative approach understanding the lack of any resource or meaningful data that would allow us to approach this more aggressively. It is our beliefs that a minimum period of six months is necessary to analyze calling patterns and demand to customize this offering to best serve the subscribers. Modifications of these offering and enhanced calling packages are certainly a consideration after enough reliable data can be collected and analyzed.

ADMINISTRATION

The simplest and most efficient way to administer the program is to have the customer designate his phoneless status on the subscriber application. For purposes of this experimental program, SBI strongly recommends that the standard USAC compensation mechanism be modified so that, during the first year, payments can be made on a monthly basis. For example, at the end of each month, SBI would present its subscriber list and, subject to appropriate verification, payment would be made within thirty days. Prompt reimbursement of SBI's out of pocket costs is essential to enable a small carrier such as SBI

to aggressively market this program and speed its development. Moreover, a streamlined compensation mechanism will encourage other carriers to participate, increase subscriber awareness and usage, and offer at least some subscribers a choice of carriers.

TIMELINE

SBI is capable of commencing this program within 90 days of receiving ETC approval and the establishment of streamlined USF administration and reimbursement procedures. SBI is prepared to promptly set up necessary internal procedures and distribution channels to maximize the reach of this program into the Native American community.

CONCLUSION

This program is designed to provide basic access to phoneless households living in extreme poverty at no cost, while allowing subscribers to contribute to the program through the purchase of additional prepaid minutes. If implemented, new subscribers will receive basic lifeline telephone service at no charge, enabling both SBI and the Commission to develop meaningful data concerning the development of telephone usage in these areas. SBI believes that a program tailored along the lines set forth above will substantially increase telephone penetration throughout its Native American service areas.

Exhibit A

Toll and Airtime Free Numbers

911	Navajo County Gang Enforcement
Apache County Probation	Navajo County Sheriff
Apache County Sheriff's Office	Navapache Regional Medical Center
Apache/Sitgreaves Forest Service	NRMC EKG Fax
AZ National Guard	NRMC Trauma Center
Cellular One	Pinetop Fire Dept.
Chinle Hospital	Pinetop Police Dept.
Cibecue Emergency Medical Services	Puerco Valley Fire Dept.
Cibecue Fire Dept.	Road & Weather Conditions
DPS Criminal Investigations	Sage Memorial Hospital
Eagar/Springerville Police Dept.	Show Low Police Dept.
Ft. Defiance Hospital	Snowflake/Taylor Police Dept.
Ganado Fire Dept.	St. Johns Police Dept.
Heber Fire Dept.	Tuba City Fire Department
Holbrook Police Dept.	Tuba City Medical Center
Hopi Police Dept.	U.S. Forest Service
Indian Health Service Hospital	White Mountain Community Hospital
Kayenta Health Center	Whiteriver Fire Dept.
Kayenta Police Dept.	Whiteriver Hospital
Keams Canyon Hospital	Whiteriver Police Dept.
Keams Canyon Police Dept.	Window Rock Fire Dept.
Lakeside Fire Dept.	Window Rock Police
Leupp Police Dept.	Window Rock Police Department
Leupp Schools	Winslow Memorial Hospital
Linden Fire Dept.	Winslow Police Department
Lukachukai Fire Dept.	Winslow Public Health
Many Farms Fire Dept.	